IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.355 OF 2006
IN
SUIT NO.584 OF 1982

Shankar Sheety & Anr. ..Plaintiffs.

V/s.

Rani Hiranand Nasta & Ors. ..Defendants.

Mr.Sanjay Jain i/b. H. Thakkar & Co. for plaintiffs.
Mr.A.A.Lokhandwal for Defendant No.18.

CORAM : J.P.DEVADHAR, J.

DATED : 19TH AUGUST, 2006.

P.C. :-

1. Heard counsel for the parties. This Notice of Motion is taken out by the defendant No.18 seeking condonation of delay in filing the written statement. The suit is filed in the year 1982. According to the defendant No.18, negotiations were going on between the plaintiff and other defendants, including defendant No.18. Although the plaintiff has settled the dispute with several other defendants, the plaintiff and the defendant No.18 have not been able to settle the dispute. Hence there is delay in filing the written statement.

2. Learned counsel for the plaintiff opposes the Notice of Motion on the ground that no case is made out for granting condonation of delay 20 years in filing the written statement. However, in my opinion, in the facts and circumstances set out in the affidavit in support of the Notice of Motion, it is just and proper that the delay in filing the written statement should be condoned subject to payment of costs. Accordingly, the delay in filing the written statement by the defendant No.18 is condoned subject to payment of costs of Rs.10,000/- to be paid by defendant No.18 to the plaintiff within 2 weeks from today. The written statement filed by defendant No. 18 is taken on record.

3. It is made clear that if the defendant No.18 fails to pay the costs within 2 weeks from today, this order shall automatically stand cancelled and the Notice of Motion shall stand dismissed without further reference to the Court.

4. Notice of Motion disposed of accordingly with no order as to costs.

(J.P. DEVADHAR, J.)